

Notice of Allowability

Application No.

10/024,019

Examiner

Jon M. Lockard

Applicant(s)

LOUGHRAN ET AL.

Art Unit

1647

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the Amendment filed 06 September 2006.
2. ☒ The allowed claim(s) is/are 1, 2, 6, 7, 11-13, 17, and 22 (renumbered as claims 1-9).
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

CHRISTINE J. SAOUD
PRIMARY EXAMINER

Christine J. Saoud

Election/Restrictions

1. Since product claims are now found to be allowable, the withdrawn process claims of Group III, claims 6, 7, and 9, are rejoined. Because a claimed invention previously withdrawn from consideration under 37 CFR 1.142 has been rejoined, **the restriction requirement between groups I and III as set forth in the Office action mailed on 21 January 2005 is hereby withdrawn.** In view of the withdrawal of the restriction requirement as to the rejoined inventions, applicant(s) are advised that if any claims including all the limitations of an allowable product claim or rejoined process claim are presented in a continuation or divisional application, such claims may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Once the restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

EXAMINER'S AMENDMENT

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Glenn P. Ladwig on 17 January 2007.

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3. The application has been amended as follows:
4. Claims 9, 18-21, and 23 have been cancelled without prejudice or disclaimer.
5. In claim 6, the phrase “for screening for an autoimmune disease” has been deleted and the phrase --of screening for large granular lymphocyte (LGL) leukemia-- inserted therefor.
6. In claim 6, the phrase “: providing” has been deleted and the term --screening-- inserted therefor.
7. In claim 6, the phrase “suspected of having an autoimmune disease; and screening said sample” has been deleted.
8. In claim 6, the phrase “of the nucleic” has been deleted and the phrase --of a nucleic-- inserted therefor.
9. In claim 6, the phrase “of claim 1” has been deleted and the phrase --comprising SEQ ID NO:4; wherein over-expression of said nucleic acid molecule is indicative of LGL leukemia-- inserted therefor.
10. In claim 11, the phrase “recombinant sppr protein” has been deleted and the phrase --recombinant spingosine 1-phosphate receptor (sppr) protein-- inserted therefor.
11. In claim 11, the phrase “a host” has been deleted and the phrase --an isolated host cell-- inserted therefor.
12. In claim 11, the phrase “said host” has been deleted and the phrase --said host cell-- inserted therefor.
13. In claim 13, the phrase “A host cell” has been deleted and the phrase --An isolated host cell-- inserted therefor.

Reasons for Allowance

14. The following is an examiner's statement of reasons for allowance: The rejections of claim 11 under 35 U.S.C. § 101 and § 112, first paragraph, are withdrawn in view of the Declaration submitted under 37 C.F.R. §1.132 (filed 06 September 2006). The Declaration submitted under 37 C.F.R. §1.132 presents evidence establishing that the polypeptide encoded by SEQ ID NO:4 (SEQ ID NO:3) is overexpressed in patients with LGL leukemia as compared to normal individuals, thus supporting the utility of the encoded polypeptide as a diagnostic marker for LGL leukemia.

15. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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Advisory Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Jon M. Lockard, Ph.D.** whose telephone number is **(571) 272-2717**. The examiner can normally be reached on Monday through Friday, 7:00 AM to 4:30 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Brenda Brumback**, can be reached on **(571) 272-0961**.

The fax number for the organization where this application or proceeding is assigned is **571-273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at **866-217-9197** (toll-free).

Jon M. Lockard, Ph.D.
January 17, 2007

**CHRISTINE J. SAOUD
PRIMARY EXAMINER**

Christine J. Saoud